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| <b>TRANSMITTAL FORM</b><br><small>(to be used for all correspondence after initial filing)</small> | Application Number     | 10/796,249            |
|  | Filing Date            | March 9, 2004         |
|  | First Named Inventor   | Shane S. Owara et. al |
|  | Art Unit               | 2171                  |
|  | Examiner Name          | Richard L. Ellis      |
| Total Number of Pages In This Submission   | Attorney Docket Number | 112056-0167           |

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| Firm Name   | Cesari and McKenna, LLP  |   |
| Signature   |  |   |
| Printed name  | Duane H. Dreger  |   |
| Date  | December 10, 2004  | Reg. No. 48,836   |

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PATENTS  
112056-0167  
P01-1728

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re The Application of: )  
Shane S. Owara et al. )  
Serial No.: 10/796,249 ) Examiner: Not Yet Assigned  
Filed: March 9, 2004 ) Art Unit: 2171  
For: SYSTEM AND METHOD FOR IN- )  
DEXING A BACKUP USING PER- )  
SISTENT CONSISTENCY POINT )  
IMAGES )

Cesari and McKenna, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
December 10, 2004

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION-DISCLOSURE STATEMENT**

In keeping with the duty of candor and good faith owed to the Patent and Trade-mark Office, Applicants wish to bring to the Examiner’s attention the references listed on the accompanying form PTO-1449. A copy of each listed reference is enclosed.

To the extent required by 37 C.F.R. §1.98(a)(3), Applicants have described what they consider to be the relevance of any foreign-language reference. The Office may find additionally relevant material in these or other references.

PATENTS  
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P01-1728

Please charge any additional fee occasioned by this paper to our Deposit Account  
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Duane H. Dreger", is written over a horizontal line.

Duane H. Dreger  
Reg. No. 48,836  
CESARI AND MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210-2414  
(617) 951-2500

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|                                |   | Cesari and McKenna, LLP    |
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| Examiner Name          | Richard L. Ellis      |
| Attorney Docket Number | 112056-0167           |

### U.S. PATENT DOCUMENTS

| Examiner<br>Initials * | Cite No. <sup>1</sup> | U.S. Patent Document |                                      | Name of Patentee or Applicant<br>of Cited Document | Date of<br>Publication of<br>Cited Document<br>MM-DD-YYYY | Pages, Columns, Lines, Where Relevant<br>Passages or Relevant<br>Figures Appear  |
|------------------------|-----------------------|----------------------|--------------------------------------|--|---|--|
|                        |                       | Number               | Kind Code <sup>2</sup><br>(if known) |  |   |  |
|                        |                       | 10/126,822           |                                      | FEDERWISCH et al.                                  |   | U.S. Patent Application<br>filed April 19, 2002<br>entitled SYSTEM AND METHOD<br>FOR CHECKPOINTING AND<br>RESTARTING AN ASYNCHRONOUS<br>TRANSFER OF DATA BETWEEN A<br>SOURCE AND DESTINATION<br>SNAPSHOT |
|                        |                       | 10/777,978           |                                      | STEPHEN L. MANLEY                                  |   | U.S. Patent Application<br>filed February 12, 2004<br>entitled SYSTEM-INDEPENDENT<br>DATA FORMAT IN A MIRRORED<br>STORAGE SYSTEM ENVIRONMENT<br>AND METHOD FOR USING THE<br>SAME                         |
|                        |                       | US2002/008<br>3037   | A1                                   | LEWIS et al.                                       | 06-27-2002  |  |
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|                        |                       | US2002/011<br>6593   | A1                                   | KAZAR et al.                                       | 08-22-2002  |  |
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|                        |                       | US2003/018<br>2312   | A1                                   | CHEN et al.  | 09-25-2003  |  |
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### FOREIGN PATENT DOCUMENTS

| Examine<br>r Initials * | Cite No. <sup>1</sup> | Foreign Patent Document |                     |                                      | Name of Patentee or<br>Applicant of Cited<br>Document | Date of Publication of<br>Cited Document MM-<br>DD-YYYY | Pages, Columns, Lines,<br>Where Relevant Passages or<br>Relevant Figures Appear | T <sub>6</sub> |
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|                         |                       | Office <sup>3</sup>     | Number <sup>4</sup> | Kind Code <sup>5</sup><br>(if known) |   |   |   |                |
|                         |                       | WO                      | 2004/01552<br>1     | A3                                   | PAWLOWSKI et<br>al.                                   | 02-19-2004  |   |                |

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|                     |                       | 5,163,131            |                                      | ROW et al.                                      | 11-10-1992                                       |   |
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|                     |                       | 6,119,244            |                                      | SCHOENTHAL et al.                               | 09-12-2000                                       |   |
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|   |                          | "NETWORK APPLIANCE ENDS NAS/SAN WAR" by COMPUTERWIRE,<br><a href="http://www.theregister.co.uk/content/63/27368.html">http://www.theregister.co.uk/content/63/27368.html</a> ; posted on February 10, 2002  |                |
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|   |                          | Common Internet File System (CIFS) Version: CIFS-Spec 0.9, Storage Networking Industry Association (SNIA), Draft SNIA CIFS Documentation Work Group Work-in-Progress, Revision Date: 3/26/2001  |                |
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<sup>1</sup> Unique citation designation number. <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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